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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,319	02/12/2002	Armando M. Diaz	14-120-1	6422

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EXAMINER

GRIER, LAURA A

ART UNIT PAPER NUMBER

2615

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/074,319	Applicant(s) DIAZ ET AL.	
	Examiner Laura A. Grier	Art Unit 2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-11, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-11, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. The indicated allowability of claims 9-11 and 13 is withdrawn.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 9-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Groeger in view of Sass and further in view of In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Regarding **claims 9-11**, Groeger discloses a radio receiver including a recording unit for audio data (figure 2). Groeger's disclosure comprises a recording unit (6) comprising digital memories (14/12) for storing audio data, wherein the data in the memories can be played back via speakers, which reads on programming a storage and playback circuit with a message or message particulars (col. 1, lines 39-43, col. 2, lines 21-25, 36-43 and 49-58); further the digital memory 12 is associated with a controller which reads on a micro controller (col. 2, line 24), and

with the recording unit (6) coupled with the radio (2) - figure (2), reads on the circuitry comprising a micro controller and an audio integrated circuit;

the recording unit (6) is connected to between a demodulator (22) and an amplifier (10) - (figure 2, col. 3, lines 1-10), which reads on connecting the storage and playback circuit a demodulator and an amplifier of a radio, and indicates the demodulating inputting a signal to the recording unit and playback unit of the radio, reads on inputting a signal from the demodulator to the audio integrated circuit. Even though, Groeger discloses via the connection of the memory, the demodulator and the amplifier enabling playback of a prerecorded message instead of the incoming signal (col. 3, lines 1-10), Groeger fails to disclose automatically initiating periodic replacement of the received radio signal with the message, and interleaving, therein as claimed.

Regarding automatically initiating periodic replacement of the received radio signal with the message, in a similar field of endeavor, Sass discloses an apparatus for distributing and playing audio information. Sass's disclosure includes enabling a receiver to manipulate, process and/or play particular commercial as desired, wherein the commercials may be stored and played back at an appropriate time (col. 8, lines 6-46, and col. 11, lines 6-56), which indicates initiating a periodic replacement of the received radio signals with prerecorded message, and as well, Sass provides obviousness of interleaving at least one pre-recorded message into an incoming signal of a radio receiver (col. 7, lines 63-67, col. 8., lines 1-5, 21-31, 54-61 and col., 11, lines 31-55).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger by implement initiating a periodic replacement of the received radio signals with prerecorded message for the purpose of customizing a radio broadcast.

However, Groeger and Sass fails to disclose the periodic replacement as being automatic. It would have obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger and Sass by enabling an automatic process of the periodic replacement of the received radio signal with prerecorded messages for the purpose of lessening manually user manipulations by a user, and furthermore, it is held that providing automatic means to replace a manual activity or process which provides the same results is a routine practice to one of ordinary skill in the art. In re Venner.

5. **Claims 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over Groeger and Sass in view of Thompson, and further in view of In re Venner.

Regarding **claim 13**, Groeger discloses a radio receiver including a recording unit for audio data (figure 2). Groeger's disclosure comprises a recording unit (6) comprising digital memories (14/12) for storing audio data, wherein the data in the memories can be played back via speakers, wherein the recording unit is connected to between a demodulator (22) and an amplifier (10) – (col. 2, lines 21-25, 36-43, col. 3, lines 1-10), which reads on apparatus connected to a radio comprising a storage and playback connected between a demodulator and an amplifier. Even though, Groeger discloses via the connection of the memory, the demodulator and the amplifier enabling playback of a prerecorded message instead of the incoming signal (col. 3, lines 1-10), and Groeger discloses a controller (col. 2, lines 21-25). However, Groeger fails to disclose automatically initiating periodic replacement of the received radio signal with the message, and microcontroller therein as claimed.

Regarding automatically initiating periodic replacement of the received radio signal with the message, in a similar field of endeavor, Sass discloses an apparatus for distributing and playing audio information. Sass's disclosure includes enabling a receiver to manipulate, process and/or play particular commercial as desired, wherein the commercials may be stored and played back at an appropriate time (col. 8, lines 6-46, and col. 11, lines 6-56), which indicates initiating a periodic replacement of the received radio signals with prerecorded message; and as well, Sass obviously discloses the microcontroller, therein as evident of the function and performance of the CPU (col. 4, lines 57-67, col. 5, lines 1-6, and col. 11, lines 35-55)

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger by implement initiating a periodic replacement of the received radio signals with prerecorded message for the purpose of customizing a radio broadcast and for enhancements taught by Sass.

Further, Groeger and Sass fails to specifically disclose a timer. In a similar field of endeavor, Thompson, III (herein, Thompson) disclose an electronic vehicular audio playback system. Thompson's disclosure comprises a timing means such as a trigger for enabling playback of a stored message for a specific period of time (col. 3, lines 15-16, 23-30 and col. 4, lines 45-54), which reads on a timer.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger and Sass by implement a timing means for the purpose of providing sequential or periodic playback of prerecorded messages as taught by Thompson.

However, Groeger and Sass fails to disclose the periodic replacement as being automatic. It would have obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Groeger and Sass by enabling an automatic process of the periodic replacement of the received radio signal with prerecorded messages for the purpose of lessening manually user manipulations by a user, and furthermore, it is held that providing automatic means to replace a manual activity or process which provides the same results is a routine practice to one of ordinary skill in the art. In re Venner.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arrowsmith in view of Sass, U. S. Patent No. 6823225.

Regarding claim 14, Arrowsmith discloses a RDS radio with multi-function RDS button. Arrowsmith discloses a an RDS or RBDS receiver (20), which receives radio broadcast signals and outputs the signal via a speaker; and indicates detecting an RDS signal via the RDS or RBDS receiver and the multi-function RDS button (15) – col. 2, lines 26-44; and col. 4, lines 22-52, indicates upon determining that an RDS is signal is present and detecting a regular program broadcast, and automatically playing a prerecorded message instead and alternately periodically playing at least on prerecorded message instead of portion of the radio broadcast. Even though, Arrowsmith discloses the this technique of reproducing message or a normal broadcast in a receiver can be used in other types of announcements, Arrowsmith fails to disclose the technique for commercials.

In a similar field of endeavor, Sass discloses a receiver (12) and discloses information such as commercial being selected in place of a currently broadcasted commercial (col. 11, lines

41-50), and as well, Sass provides obviousness of interleaving at least one pre-recorded message into an incoming signal of a radio receiver (col. 7, lines 63-67, col. 8., lines 1-5, 21-31, 54-61 and col. 11, lines 31-55), which indicates periodically playing at least one prerecorded message, therein.

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Arrowsmith by providing the replacement of a broadcast commercial with a prerecorded commercial or message for the purpose of providing intelligent selection of programs and information for a user as taught by Sass.

### ***Response to Arguments***

7. The applicant did not provided arguments against the prior art. Remarks were made in respect to amended claim language in view previously indicated allowable subject matter. However, upon further review and consideration of the Sass patent, a rejection is maintained.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Laura A Grier  
Primary Examiner  
Art Unit 2644

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